

## § 235.1222

## 24 CFR Ch. II (4-1-13 Edition)

### CONTRACT RIGHTS AND OBLIGATIONS

#### § 235.1222 Cross-reference.

The provisions of subpart B of title 24 of part 235 shall be applicable to mortgages insured in accordance with section 235(r) of the National Housing Act.

[57 FR 62453, Dec. 30, 1992. Redesignated at 60 FR 56499, Nov. 8, 1995]

### CONTRACT FOR ASSISTANCE PAYMENTS

#### § 235.1224 Cross-reference.

(a) Title 24, part 235, subpart C, as modified and supplemented by this subpart, shall constitute the contract between the mortgagee and the Secretary for assistance payments in connection with a mortgage insured under section 235(r) of the National Housing Act.

(b) The sections of subpart C of this part which apply in connection with a mortgage insured under section 235(r) are the following:

Sec.

- 235.301 Definitions.
- 235.340 Time of payments.
- 235.350 Mortgagor's required recertification.
- 235.355 Mortgagor's optional recertification.
- 235.360 Adjustment in assistance payments.
- 235.361 Recovery of assistance payments.
- 235.365 Mortgagee records.
- 235.370 Effect of assignment of mortgage with an assistance payment contract.
- 235.375 Termination, suspension or reinstatement of the assistance payments contract.
- 235.499 Effect of amendments.

[57 FR 62453, Dec. 30, 1992. Redesignated at 60 FR 56499, Nov. 8, 1995]

#### § 235.1226 Additional provisions of the assistance payment contracts for section 235(r).

(a) *Assistance payments and handling charges.* The assistance payments on behalf of the mortgagor shall be the lesser of the following:

(1) The difference between 20 percent (or 28 percent in the case of contracts entered into for a ten-year term (ten year contracts) pursuant to the authority under section 235(c)(1) of the National Housing Act, as amended by the Housing and Urban-Rural Recovery Act of 1983 (Pub. L. 98-181)) of the homeowner's adjusted monthly income and the required monthly payment under the mortgage for principal, interest,

taxes, insurance, and mortgage insurance premium.

(2) The difference between the required monthly payment under the mortgage for principal, interest, and mortgage insurance premium and the monthly payment which would be required for principal and interest if the mortgage bore the lower interest rate established by the Secretary and in effect at the time of the closing of the mortgage being refinanced and which is referred to as the "floor rate."

(b) *Floor rates.* The floor rates are determined by the date of the closing of the mortgage being refinanced. As an example, the following chart contains floor rates. However, mortgagees must check the HUD Form 93100 for the mortgage being refinanced to obtain the floor rate for the mortgage, which rate is to be used to compute the formula contained in paragraph (a) of this section.

TABLE

Date of closing	Interest rate	
	Note rate (percent)	To compute second element of subsection (a)(2) (percent)
8/9/68-1/4/76 .....	N/A .....	1
1/5/76-3/6/78 .....	N/A .....	5
3/7/78-3/8/81 .....	N/A .....	4
On or after 3/9/81	13.50 or below .....	4
	13.75-14.00 .....	4 <sup>3</sup> / <sub>4</sub>
	14.25-14.50 .....	5 <sup>1</sup> / <sub>2</sub>
	15.00 .....	6
	15.50 .....	6 <sup>3</sup> / <sub>4</sub>
	16 .....	7 <sup>1</sup> / <sub>4</sub>
	16.50 .....	8
	17.50 .....	8

(c) *Handling charges.* In addition to the assistance payments referred to in paragraph (a) of this section, the mortgagee shall be entitled to the monthly payment of an amount the Secretary deems sufficient to reimburse the mortgagee for its expense in handling the mortgage.

(d) *Taxes in monthly payment.* Special assessments levied by a governmental body are to be included under the term "taxes" as part of the monthly payment. However, ground rents, assessments of a homeowners' association or condominium association, and special

assessments levied by persons or private organizations are not to be included.

[57 FR 62453, Dec. 30, 1992. Redesignated at 60 FR 56499, Nov. 8, 1995]

**§ 235.1228 Termination of assistance payments contracts on mortgages to be refinanced.**

The assistance payments contract for the mortgage being refinanced shall be terminated on the day before the disbursement of the proceeds of the mortgage to be insured, and no further assistance payments shall be made under such contract.

[57 FR 62453, Dec. 30, 1992. Redesignated at 60 FR 56499, Nov. 8, 1995]

**§ 235.1230 Execution of assistance payment contract.**

The issuance of a mortgage insurance certificate pursuant to § 235.1 *et seq.* shall also constitute the execution of the assistance payments contract with respect to the mortgage being insured.

[57 FR 62453, Dec. 30, 1992. Redesignated at 60 FR 56499, Nov. 8, 1995]

**§ 235.1232 Eligibility for assistance payments.**

(a) To be eligible for assistance payments, a homeowner must:

(1) Be a mortgagor on a mortgage insured under section 235(r);

(2) Have been entitled to, and receiving, assistance payments under the mortgage being refinanced; and

(3) According to the formula contained under § 235.1210(a), continue to be eligible for such payments under the 235(r) mortgage.

(b) The mortgagee, holding the mortgage being refinanced, must certify that the mortgagor is eligible for, and receiving, assistance payments under the mortgage being refinanced and that the last recertification by the mortgagor was within the preceding twelve months prior to the application for the section 235(r) mortgage. If the last recertification was not within that period, then the mortgagee will have to obtain a current recertification from the mortgagor for the purpose of determining whether the mortgagor remains eligible to continue receiving assist-

ance payments under the mortgage being refinanced.

(c) In addition, the mortgagee originating the 235(r) mortgage must obtain a new certification from the mortgagor for eligibility for assistance payments under the 235(r) mortgage.

(d) For purposes of determining eligibility under the 235(r) mortgage, the mortgagor must certify as to occupancy, employment, family composition and income on a form prescribed by the Secretary.

(e) The mortgagor shall agree to recertify, on a form prescribed by the Secretary, as to occupancy, employment, family composition and income in accordance with 24 CFR 235.350.

(f) Homeowners, who are cooperative members and have been receiving assistance payments under section 235, are not eligible for assistance payments in connection with section 235(r) since they are not eligible for a mortgage insured under that section.

[57 FR 62453, Dec. 30, 1992. Redesignated at 60 FR 56499, Nov. 8, 1995]

**§ 235.1234 Term of assistance payment contract in connection with mortgages insured under section 235(r) of the Act.**

(a) *Existing contracts with original terms in excess of ten years.* In cases where the existing contract has an original term in excess of ten years, the term of the new assistance payments contract in connection with section 235(r) shall commence on the date of disbursement of the mortgage proceeds as certified by the mortgagee and shall continue until the contract is terminated pursuant to 24 CFR 235.375.

(b) *Existing ten year contracts.* (1) In cases of existing ten year contracts, the term of the new assistance payments contract in connection with section 235(r) shall commence on the date of the disbursement of the mortgage proceeds as certified by the mortgagee and shall continue for the unexpired term of the existing ten year contract, or until such earlier time as the contract is otherwise terminated pursuant to 24 CFR 235.375. The mortgagor will acknowledge receipt of a notice containing the expiration date of the new assistance payments contract.